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FISCAL IMPACT STATEMENT

LS 7829

BILL NUMBER: SB 414

NOTE PREPARED: Mar 28, 2005

BILL AMENDED: Mar 21, 2005

SUBJECT: EDGE Credit Applications.

FIRST AUTHOR: Sen. Ford

FIRST SPONSOR: Rep. T Harris

BILL STATUS: As Passed House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: *EDGE Credits:* The bill provides that the Indiana Economic Development Corporation (IEDC) Board shall, in evaluating an EDGE credit application to retain existing jobs in Indiana submitted after December 31, 2005, determine whether the average compensation paid by the applicant exceeds: (1) the average compensation paid to employees working in the same industry sector within the county in which the applicant's business is located, if there is more than one business in that industry sector in the county; (2) the average compensation paid to employees working in the same industry sector in Indiana, if the applicant's business is the only business in that industry sector in the county but there is more than one business in that industry sector in Indiana; or (3) twice the federal minimum wage, if the applicant's business is the only business in that industry sector in Indiana. The bill also provides that the IEDC Board may, in evaluating an EDGE credit application to create jobs in Indiana after December 31, 2005, consider whether the average wage paid by the applicant exceeds the average wage paid to: (1) all employees working in the same industry sector in the county in which the applicant's business is located, if there is more than one business in that industry sector in the county; (2) all employees working in the same industry sector in Indiana, if the applicant's business is the only business in that industry sector in the county but there is more than one business in that industry sector in Indiana; or (3) all employees working in the county in which the applicant's business is located, if the applicant's business is the only business in that industry sector in Indiana.

The bill removes the requirement that an applicant provide evidence of a competing job site and reduces the number of employees the applicant must employ from 200 to 75. It also changes the minimum ratio of local incentives to EDGE credits from \$1.50 per \$3 of EDGE credits to \$1 per \$2 of EDGE credits.

Alternative Research Expense Credit Calculation: The bill provides an alternative method for calculating the

Qualified Research Credit of a qualified advanced manufacturing company.

Advanced Manufacturing Tax Credits: The bill also creates a Certified Advanced Manufacturing Investment Tax Credit and a refundable Advanced Manufacturing Job Retention Tax Credit.

Effective Date: Upon Passage; January 1, 2005 (retroactive); July 1, 2005.

Explanation of State Expenditures: *Indiana Economic Development Corp. (IEDC):* The bill could potentially broaden eligibility and expand the applicant pool for EDGE credits relating to job creation and job retention projects. This may increase the number of applications for EDGE credits and the number of EDGE credits awarded annually. This could potentially create additional administrative demands on the Indiana Economic Development Corporation (IEDC). Under P. L. 4-2005, the EDGE Board has been abolished and its responsibilities have been transferred to the IEDC and IEDC Board. In addition, the bill provides for the IEDC would have to administer the Advanced Manufacturing Tax Credits and monitor project investments. The IEDC should be able to implement the EDGE Credit changes and the Advanced Manufacturing Tax Credits under current staffing and resource levels.

Department of State Revenue (DOR): The DOR would incur some administrative expenses relating to the revision of tax forms, instructions, and computer programs to incorporate this credit. The DOR's current level of resources should be sufficient to implement these changes.

Explanation of State Revenues: (Revised) *EDGE Credits:* The bill makes the following changes to EDGE Credit approvals:

(1) The bill changes the average compensation standards for businesses seeking EDGE credits for *job creation* and *job retention* projects. These changes would be effective for EDGE credit applications beginning in 2006. The bill changes the current average compensation standard, generally, by linking it to the average compensation paid to employees working in the same industry sector in the county where the business's project is located, or in the state if no other business in that industry operates in the county. If no other business in that industry sector operates in the state, the average compensation must be at least 200% of the federal minimum wage for job retention projects, and must exceed the county average for all employees for job creation projects. Under current statute, the standard is linked only to the average compensation for all employees in the county where the business's project is located. The industry sector of the business would be defined according to the North American Industry Classification System (NAICS).

These changes could potentially increase the revenue loss from EDGE credits. However, the magnitude of this loss is indeterminable.

(2) Under the bill, the IEDC Board would not be required to consider existing economic impact, investment, wage, and local financial assistance factors in determining EDGE Credit amounts for projects to create jobs. The bill also would not require the IEDC Board to consider the magnitude of the project cost differential between Indiana and competing sites for projects to retain jobs. The bill would authorize the Board to consider these factors, but not require these factors to be considered. The extent to which this change will affect EDGE Credit amounts is indeterminable.

(3) The bill lowers the the employment requirement for businesses seeking EDGE credits for job retention from 200 employees in Indiana to 75 employees in Indiana. This change could potentially increase the revenue loss from EDGE credits. However, the magnitude of this loss is indeterminable.

(4) The bill eliminates requirements that an applicant for EDGE credits for job retention: (1) provide evidence that at least one other competing site outside Indiana is being considered for the project or for the relocation of jobs; and (2) that a disparity is identified between the project cost in Indiana versus the project cost at the competing site. could potentially increase the number of EDGE credits awarded for projects that lead to job retention.

Alternative Calculation of the Research Expense Tax Credit: Under the bill, a qualified advanced manufacturing company may elect an alternative method to calculate the Research Expense Tax Credit. The changes to the Research Expense Tax Credit would be effective for tax years beginning January 1, 2005. An advanced manufacturing company is a company that maintains one or more manufacturing facilities in Indiana, employs more than 2,500 full-time employees, pays on average more than 400% of the hourly minimum wage, and has been designated by executive order of the Governor as a qualified advanced manufacturing company. The alternative credit is equal to 1% of the difference between: (1) the taxpayer's current year Indiana qualified research expenses; and (2) 50% of the taxpayer's average Indiana qualified research expenses for the three preceding taxable years. Currently, the credit is equal to 10% of difference between the current year Indiana qualified research expenses, and (2) the taxpayer's base period Indiana qualified research expenses.

Advanced Manufacturing Tax Credits: This bill creates new Advanced Manufacturing Investment and Advanced Manufacturing Job Retention credits. In addition, the Investment and Job Retention Credits would only apply for investment made from January 1, 2005 to December 31, 2009. The credits are applicable to the Adjusted Gross Income Tax, the Financial Institutions Tax, and the Insurance Premiums Tax.

The potential impact of the credits depends on several factors, including: (1) the number of firms meeting the qualifications of an advanced manufacturing company; (2) the actions of the Governor relating to designating qualified companies; (3) the actions of the IEDC Board in awarding credits for advanced manufacturing projects; and (4) the number of advanced manufacturing companies that elect to use the alternative calculation for the Research Expense Credit. As a result, the potential amount of credits that might be claimed is indeterminable. Assuming the minimum allowable investment and job retention levels under the bill, the impact of a qualified advanced manufacturing project could be as follows:

(1) A \$70.0 M advanced manufacturing project would be eligible for \$700,000 in Advanced Manufacturing Investment credits.

(2) If the project retained 2,000 advanced manufacturing jobs paying the required 400% of the state minimum hourly wage, Advanced Manufacturing Job Retention credits on withholdings could potentially total about \$26,000 annually for three years.

Revenue from the AGI Tax on corporations, the Financial Institutions Tax, and the Insurance Premiums Tax is distributed to the state General Fund. The revenue from the AGI Tax on individuals is deposited in the state General Fund (86%) and the Property Tax Replacement Fund (14%). The tax credit is effective beginning July 1, 2005.

Background: EDGE Credits: Under current statute, businesses that (1) create new investment and jobs in Indiana or (2) undertake projects to retain existing jobs in Indiana are eligible for EDGE credits. As it applies to investment that creates new jobs, the EDGE Program is designed to provide a revenue-neutral incentive for businesses to create new investment and jobs in Indiana. Such businesses receive credits equal to the individual income taxes withheld for employees filling the newly created positions. Since revenue from

these employees would not have been collected in the absence of the new development, the state does not incur a net loss by redistributing the incremental income tax revenue as tax credits to businesses. For job retention projects, no new revenue would be realized since no new jobs would be created. As a result, EDGE credits for job retention are paid from existing revenues, resulting in a net loss to the state equal to the amount of EDGE credits granted to businesses for job retention. However, if a business were to select a more profitable alternative project site and move out of Indiana, there could be an even greater loss of revenue from the reduction in individual (employee's) and corporate taxes. [Note: Under current statute, EDGE Credits for job retention projects may not exceed \$5 M in FY 2004 or FY 2005. There is no limit on the amount of EDGE Credits for job retention projects beginning in FY 2006.]

EDGE credits may be taken against a taxpayer's Adjusted Gross Income Tax, Insurance Premiums Tax, or Financial Institutions Tax liabilities. The duration of the credit may not exceed ten taxable years.

In 2003, the EDGE Board approved approximately \$28.8 M in new credits for job creation to be used over a period of years. The credits were awarded for 16 projects expected to create 6,823 new jobs. The EDGE Board also approved \$2.0 M in new credits for job retention, also to be used over a period of years. The credits were awarded for 2 projects expected to retain 2,450 jobs. From 1994 to 2003, EDGE credits for job creation were approved for 114 projects. During those years, approximately \$132.4 M in EDGE credits for job creation were made available, with the total amount of credits certified so far equal to about \$81.3 M. Approximately \$38.2 M in EDGE credits for job creation were available for approved projects in tax year 2003. EDGE credits for job retention were awarded for the first time in 2003. [Note: Under current statute, EDGE Credits may not exceed \$5 M in FY 2004 or FY 2005. There is no limit on the amount of EDGE Credits for job retention beginning in FY 2006.] Revenue from the AGI Tax on corporations, the Insurance Premiums Tax, and the Financial Institutions Tax is distributed to the state General Fund. Eighty-six percent of the revenue from the AGI Tax on individuals is deposited in the state General Fund, and 14% of the revenue is deposited in the Property Tax Replacement Fund.

Advanced Manufacturing Tax Credits: The IEDC Board would be authorized to award the following tax credits:

(1) The Advanced Manufacturing Investment Credit against a qualified advanced manufacturing company's state tax liability, if the taxpayer makes a certified advanced manufacturing investment in a qualified advanced manufacturing project. A qualified project would cost at least \$70,000,000. The amount of the credit would be equivalent to 1% of the investment and the credit may be carried forward up to three consecutive years.

(2) The Advanced Manufacturing Job Retention Credit to a taxpayer undertaking a qualified advanced manufacturing project for income tax withholdings of advanced manufacturing employees. The credit is equal to 1% of the withholdings for full-time employees working in advanced manufacturing jobs at the qualified advanced manufacturing project site. The duration of the tax credit is based on the number of full-time advanced manufacturing jobs maintained. If a taxpayer maintains 2,500 jobs, a credit for five consecutive taxable years would be awarded; between 2,250 and 2,500 jobs, the credit would be awarded for four consecutive taxable years; and between 2,000 and 2,250 jobs, the credit would be awarded for three consecutive years.

If the taxpayer does not comply with the terms of the agreement set with the IEDC Board, the IEDC Director must notify the Department of State Revenue. The Department of State Revenue would assess the taxpayer 50% of credits previously awarded for an Investment Credit or 100% of the credits previously awarded for a

Job Retention Credit.

Research Expense Credit: The credit is available for individuals, corporations, limited liability companies, limited liability partnerships, trusts, or partnerships who have increased research activities conducted in Indiana. The credit is calculated based on the increased expenses a taxpayer incurred over their base year expenditures. The base year expenditures are measured for taxable years beginning after December 31, 1989, and are equal to the federal base amount as defined in the Internal Revenue Code (2001). A taxpayer is not entitled to a carryback or refund, but may carry forward the tax credit for 15 years. The base year expenses may not be less than 50% of the current tax year's qualified research expenses.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of State Revenue, Indiana Economic Development Corporation.

Local Agencies Affected:

Information Sources: Indiana Department of Commerce, *2003 EDGE Annual Report*, March 31, 2004; *2003 EDGE for Retention Annual Report*, March 31, 2004. U. S. Census Bureau, *2002 County Business Patterns*.

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